

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

OBINA ONYIAH <div style="text-align: center;">Plaintiff</div>	:	
vs.	:	NO. 2:22-CV-01556
THE CITY OF PHILADELPHIA, et al. <div style="text-align: center;">Defendants</div>	:	
COMMONWEALTH OF PENNSYLVANIA <div style="text-align: center;">Plaintiff</div>	:	
vs.	:	NO. MC-51-CR -0003501-2022
JAMES PITTS, <div style="text-align: center;">Defendants</div>	:	

**PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S
MOTION TO STAY CIVIL LITIGATION**

I. INTRODUCTION

On April 21, 2022, Plaintiff, Obina Onyiah filed a Complaint as arising under 42 U.S.C. § 1983 for claims involving the malicious prosecution of Plaintiff by the individual named Defendants, Philadelphia police officers, as well as claims under a theory of municipal liability against the City of Philadelphia. On February 28, 2022, James Pitts, was indicted based on the same facts and legal theories as embodied in Plaintiff’s Complaint.

The gravamen of both Complaints aver that the individual Defendant police officers engaged in police misconduct which culminated in the malicious prosecution of Plaintiff, Obina Onyiah. One of the participating police officers – Former Detective James Pitt – physically assaulted Plaintiff during an interview with the intent of obstructing justice and falsified testimony during a pretrial hearing challenging the admissibility of the purported confession. Subsequently, Defendant Pitts was indicted for allegedly offering false testimony at trial in the criminal matter.

On July 1, 2022 Defendant Pitts' criminal charges at the preliminary hearing, were held for court. See Court of Common Plea of Philadelphia Criminal Docket CP-51-CR-0004729-2022 attached hereto and marked as Exhibit "A". No trial date has been scheduled. Under the present COVID restrictions and the burden that has put on the Courts, trial may not be scheduled any time soon. Therefore, imposing a blanket stay of all discovery could be indefinite, prejudicing Plaintiff.

This matter is now before the Court on Defendant the City of Philadelphia's Motion to Stay Civil Litigation. No other individual Defendant filed a similar motion, including Defendants Former Detective Pitts, Detective Thuston or Detective Lucke. In the instant matter, Defendant, the City of Philadelphia, seeks a stay of all proceedings in this case pending the completion of his criminal trial. Plaintiff opposes Defendant's motion for the following reasons.

Defendant argues that a stay of this civil case is required because of the direct relationship between the criminal and civil matters. Defendant's Motion p. 2-3. Plaintiffs oppose instituting the stay because the issues in Pitts' civil and criminal cases overlap in some, but not all aspects.

II. STANDARD OF REVIEW

As part of the district court's power to control the disposition of civil matters that come before it, the court has the power to stay proceedings when judicial economy or other interests may require. *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); see also *CTF Hotel Holdings, Inc. v. Marriott Int'l, Inc.*, 381 F.3d 131, 136 (3d Cir. 2004). A stay of the proceedings is an extraordinary measure and the decision

to impose a stay rest within the discretion of the district court. *Barker v. Kane*, 149 F.Supp.3d 521, 525 (M.D. Pa. 2016) (citing *In re Adelpia Commen's Secs. Litig.*, No. 02-1781, 2003 WL 22358819, at *2 (E.D. Pa. May 13, 2003)); see also *Landis*, 299 U.S. at 254-256. In determining whether to stay a civil case pending resolution of a related criminal proceeding, Courts consider the following factors:

- (1) the extent to which the issues in the civil and criminal cases overlap;
- (2) the status of the criminal proceedings, including whether any defendants have been indicted;
- (3) the plaintiff's interests in expeditious civil proceedings weighed against the prejudice to the plaintiff caused by the delay;
- (4) the burden on the defendants;
- (5) the interests of the court; and
- (6) the public interest.

Walsh Securities, Inc. v. Cristo Property Management, LTD, 7 F.Supp 2d. 523, 526-527 (D.N.J. 1998).

III. ARGUMENT

A. Degree of Overlap

Under the first Walsh Securities factor, the court examines the extent to which the issues in the criminal and civil proceedings overlap. *Id.* In this case, as previously stated, the issues in Plaintiff's civil case and Defendant Pitt's criminal case overlap in some, but not all aspects. The criminal charges against Defendant Pitts for perjury, obstruction of justice and conspiracy to make false statements arise out of the same October 21, 2010, incident which forms the basis of Plaintiff's complaint. Plaintiff alleges that Defendants, Former Detective Pitts; Detective Thuston and Detective Lucke, falsified testimony, information and documents used to substantiate the probable cause for the Plaintiff's arrests and prosecutions. A court is less likely to

grant a stay if the issues in parallel civil and criminal proceedings do not completely overlap.

Therefore, the first *Walsh Securities* factor weighs in favor of the Plaintiff as to discovery involving the City of Philadelphia and other non-indicted individual Defendant police officers.

B. Status of Criminal Proceedings

The second *Walsh Securities* factor states, “the strongest case for a stay of discovery in the civil case occurs during a criminal prosecution after an indictment is returned ... [due] to the potential for self-incrimination.” *Walsh Secs., Inc.*, 7 F. Supp. 2d at 527. Each case must be evaluated individually. *Id.* Despite the indictment returned against Defendant Former Detective Pitts, at this stage of the civil proceeding, the risk of Defendant’s self-incrimination remains low. As discussed, the civil and criminal cases address different issues. Importantly, the Fifth Amendment Privilege against self-incrimination does not extend to Defendants, the City of Philadelphia and other individual non-indicted police officers named in this suit. See *United States v. Diantonio*, 2016 WL 3063808, at *6 (D.N.J. May 27, 2016). Moreover, future discovery will be in the form of documents and testimony from these other Defendants, rather than testimony from Defendant Pitts. Consequently, there is no risk of Defendant Pitts’ self-incrimination in the instant matter.

Any additional information will be sought from Defendants, the City of Philadelphia and the additional named non-indicted police officers. The additional police officers have not been indicted and there appears to be little risk of self-

incrimination from these witnesses. Therefore, this factor weighs against granting a complete stay.

C. Prejudice to the Plaintiff

As to the the third *Walsh Securities* factor, Plaintiff clearly has an interest in the expeditious resolution of his civil action. Plaintiff would be prejudiced by a complete stay as it would interfere with his interest in pursuing his civil case in an expeditious manner and would increase the chance that witnesses would have difficulty remembering events as clearly and evidence could be lost.

This weighs against granting a complete stay of discovery, as Plaintiff would be prejudiced if the action is indefinitely stayed pending the resolution of Defendant Pitts' criminal case.

D. Burden on Defendants

In connection with the fourth *Walsh Securities* factor, Defendant the City of Philadelphia has the burden to show that without a stay, Former Detective Pitts will undoubtedly assert his Fifth Amendment rights at depositions, preventing Defendant the City of Philadelphia from adequately defending its interests. Defendant's Motion p. 4. This is an inaccurate and baseless presumption. Like all citizens, Defendant Pitts has the option to exercise his Fifth Amendment right against self-incrimination; However, Defendant Pitts invoking this privilege would in no way preclude Defendant the City of Philadelphia and other non-indicted individual defendant officers from defending their interests in this civil matter. Additionally, Plaintiff intends to engage primarily in discovery of the other non-indicted defendants in this

civil matter. Therefore, the prejudice that Plaintiff Onyiah would suffer if his civil case is stayed greatly outweighs the burden on Defendants, City of Philadelphia and the other named police officers, to engage in discovery.

Moreover, the Court can use its authority in managing civil discovery to prevent Plaintiff from using civil discovery to impinge in any way with the ongoing criminal prosecution of Former Detective Pitts. If it appears to the Court Plaintiff is not conducting discovery primarily for the civil case, but instead for the purpose of interfering with the criminal charges, the Court can take appropriate action to delay, limit or postpone discovery. Thus, Defendant Pitts' interests can still be protected while permitting this civil case to proceed.

E. Interest of the Court

As to the fifth *Walsh Securities* factor, the Court has an interest in judicial efficiency in terms of managing its caseload. See *Walsh Securities*, 7 F.Supp.2d at 528. Currently, a trial date has still not been set in Defendant Pitts' criminal case. See Exhibit "A". Further, with the state of the pandemic, a complete stay of the case at this time would be indefinite. This factor weighs against granting a complete stay of discovery.

F. Public Interest

The last *Walsh Securities* factor to be considered is whether a civil case involves a matter of significant public interest. For example, "[c]ourts have denied stays where the civil case, brought by a government agency, was intended to protect the public by halting the distribution of mislabeled drugs ..., or the dissemination of misleading information to the investing public ..." *Walsh*

Securities, 7 F.Supp.2d at 529. In this case, this factor is not dispositive because Defendant Pitts does not allege an urgent harm to the general public.

In contrast, there is a public interest in having those individuals who have been the victims of police misconduct, have their constitutional rights vindicated, especially when weighed against the interests of Defendant, City of Philadelphia who has no interest in protecting its Fifth Amendment rights, since the City does not have the ability to invoke this privilege.

IV. CONCLUSION

Plaintiff respectfully request that this Honorable Court deny Defendant, City of Philadelphia's Motion to Stay Discovery pending the criminal trial of Defendant former Detective Pitts.

Abramson & Denenberg, P.C.

DATE: August 9, 2022

/s/ Alan E. Denenberg

Alan E. Denenberg, Esq.
1315 Walnut Street, Suite 500
Philadelphia, Pa 19107

EXHIBIT “A”

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

DOCKET



Docket Number: CP-51-CR-0004729-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

James Pitts

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CASE INFORMATION

Judge Assigned: Shaffer, Zachary C.OTN: U 248666-5LOTN:Initial Issuing Authority: The Honorable Mia Roberts PerezArresting Agency: Philadelphia PdComplaint/Citation No.: 2271000034-0003501Case Local Number Type(s)

Originating Docket Number

District Control Number

Originating Document Number

Date Filed: 06/21/2022Initiation Date: 06/21/2022Originating Docket No: MC-51-CR-0003501-2022Final Issuing Authority:Arresting Officer: Miller-Green, ValerieIncident Number: 2271000034Case Local Number(s)

MC-51-CR-0003501-2022

2271000034

2271000034-0003501

STATUS INFORMATION

Case Status: ActiveStatus Date

06/29/2022

06/21/2022

Processing Status

Awaiting Pre-Trial Conference

Awaiting Filing of Information

Arrest Date:

03/03/2022

Complaint Date:

03/03/2022

CALENDAR EVENTS

<u>Case Calendar</u>	<u>Schedule</u>	<u>Start</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u>
<u>Event Type</u>	<u>Start Date</u>	<u>Time</u>			<u>Status</u>
Formal Arraignment	07/01/2022	11:00 am	1104	Trial Commissioner Cynthia S. Gregg	Scheduled
Pre-Trial Conference	07/20/2022	9:00 am	1005	Judge Robert P. Coleman	Scheduled
Status	08/05/2022	9:00 am	905	Judge Zachary C. Shaffer	Scheduled

DEFENDANT INFORMATION

Date Of Birth:

09/07/1970

City/State/Zip: Philadelphia, PA 19143

CASE PARTICIPANTS

Participant TypeName

Defendant

Pitts, James

BAIL INFORMATION

Pitts, James

Nebbia Status: NoneBail ActionDateBail TypePercentageAmountBail Posting StatusPosting Date

Set

03/03/2022

Unsecured

\$10,000.00

CHARGES

<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Dt.</u>	<u>OTN</u>
1	1		18 § 4902	Perjury	03/03/2022	U 248666-5

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

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<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Dt.</u>	<u>OTN</u>
2	2		18 § 4902	Perjury	03/03/2022	U 248666-5
3	3		18 § 5101	Obstruct Admin Law/Other Govt Func	03/03/2022	U 248666-5
4	4		18 § 5101	Obstruct Admin Law/Other Govt Func	03/03/2022	U 248666-5
5	5		18 § 5101	Obstruct Admin Law/Other Govt Func	03/03/2022	U 248666-5

DISPOSITION SENTENCING/PENALTIES

Disposition

Case Event

Sequence/Description

Sentencing Judge

Sentence/Diversion Program Type

Sentence Conditions

Disposition Date

Offense Disposition

Sentence Date

Incarceration/Diversionary Period

Final Disposition

Grade Section

Credit For Time Served

Start Date

Lower Court Proceeding (generic)

Preliminary Hearing

1 / Perjury

06/17/2022

Held for Court

Not Final

18 § 4902

2 / Perjury

Held for Court

18 § 4902

3 / Obstruct Admin Law/Other Govt Func

Held for Court

18 § 5101

4 / Obstruct Admin Law/Other Govt Func

Held for Court

18 § 5101

5 / Obstruct Admin Law/Other Govt Func

Held for Court

18 § 5101

Proceed to Court

Defendant Was Not Present

Information Filed

07/15/2022

Not Final

1 / Perjury

Proceed to Court

18 § 4902

2 / Perjury

Proceed to Court

18 § 4902

3 / Obstruct Admin Law/Other Govt Func

Proceed to Court

18 § 5101

4 / Obstruct Admin Law/Other Govt Func

Proceed to Court

18 § 5101

5 / Obstruct Admin Law/Other Govt Func

Proceed to Court

18 § 5101

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COMMONWEALTH INFORMATION

Name:Supreme Court No:

ATTORNEY INFORMATION

Name:

William Ryan McLaughlin

Court Appointed

Supreme Court No:

093875

Rep. Status:

Active

Phone Number(s):

215-242-9000 (Phone)

Address:

McLaughlin Law Office Pc
6701 Germantown Ave Ste 2107
Philadelphia, PA 19119

Representing: Pitts, James

ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
1	06/21/2022		Court of Common Pleas - Philadelphia County
			Held for Court
3	06/21/2022		McLaughlin, William Ryan
			Waiver of Appearance at Arraignment
4	06/29/2022		Court of Common Pleas - Philadelphia County
			Hearing Notice
1	07/01/2022		Court of Common Pleas - Philadelphia County
			Hearing Notice
1	07/15/2022		Krasner, Larry
			Information Filed
3	07/20/2022		Court of Common Pleas - Philadelphia County
			Hearing Notice
1	07/28/2022		McLaughlin, William Ryan
			Motion for Discovery

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

DOCKET



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